

[Federal Register: October 18, 2006 (Volume 71, Number 201)] [Notices] [Page 61508] From the Federal Register Online via GPO Access [wais.access.gpo.gov] [DOCID:fr18oc06-89] -----

----- DEPARTMENT OF JUSTICE Notice of Proposed Agreement Regarding Alleged Non-Compliance With Consent Decree in United States v. Cummins Engine Company, Inc. Notice is hereby given of a proposed Agreement Regarding Alleged Non-Compliance with Consent Decree ("Agreement") in the case of United States v. Cummins Engine Company, Inc., Civil Action No. 98- 02546, in the United States District Court for the District of Columbia. The Agreement resolves four matters involving Cummins' alleged failure to comply with a 1999 Consent Decree settling claims under Title II of the Clean Air Act, 42 U.S.C. 7521 et seq. (the "Act"), regarding the alleged use of illegal emission-control "defeat devices" on Cummins' 1998 and prior heavy-duty diesel engines ("HDDs"). The first matter concerns Cummins' use of a computer-based auxiliary emission control device ("AECD") to prevent engine overheating, on approximately 11,600 model years 2000-2003 engines sold for use in school buses and recreational vehicles. The overheat AECD, which required EPA approval, did not operate in the manner described in Cummins' applications to EPA for regulatory "certificates of conformity" permitting the sale of the engines in the United States and as pre-approved in the 1999 Consent Decree. The second matter concerns Cummins' use of 1101 more Averaging, Banking and Trading ("AB&T") Credits than was permitted by the consent Decree. The third matter relates to Cummins' implementation of a Low NOX Rebuild Program for which Cummins failed to request the requisite EPA approval (until April 13, 2006). The last matter is Cummins' omission of 26,347 engines from its Low NOX Rebuild Program. In addition, the Settlement resolves Cummins' disclosure to the United States that in 2001 it violated provisions of 40 CFR part 86 in connection with certification testing of engines under the Consent Decree by its failure to perform test equipment calibrations within applicable time limits set forth in 40 CFR 86.1321; 1321(b); 1323(a) & (b) and 1324. These violations are addressed through Cummins' payment of an agreed penalty in the amount of \$950,000, to be shared between the United States and the California Air Resources Board. Cummins will also continue a recall to fix or disable the overheat AECD. Lastly, Cummins will recoup the excess tons of NOX emitted by its violations of the Consent Decree, offset by any tons obtained in the ongoing recall. the NOX tons must come from one of three sources: (1) Cummins' on-road AB&T accounts; (2) Cummins' off-road AB&T accounts; or (3) currently valid stationary source NOX tons purchased on the open market through a licensed broker. The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Agreement. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, and should refer to United States v. Cummins Engine Company, Inc., D.J. Ref. 90-5-2-1- 2136A. During the public comment period, the Agreement may be examined on the following Department of Justice Web site, <http://www.usdoj.gov/enrd/open.html> . A copy of the Agreement may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611 or by faxing or e-mailing a request to Tonia Fleetwood (tonia.fleetwood@usdoj.gov), fax No. (202) 514-0097, phone confirmation number (202) 514-1547. In requesting a copy of the Decree from the Consent Decree Library, please enclose a check in the amount of \$4.50 (25 cents per page reproduction cost for 18 pages) payable to the U.S. Treasury. Karen Dworkin, Assistant Chief, Environmental Enforcement Section. [FR Doc. 06-8742 Filed 10-17-06; 8:45 am] BILLING CODE 4410-15-M

